

ESTTA Tracking number: **ESTTA252089**

Filing date: **12/01/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Gabrielle Studio, Inc.
Granted to Date of previous extension	11/30/2008
Address	550 Seventh Avenue New York, NY 10018 UNITED STATES
Attorney information	Jonathan Z. King Cowan Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES hlj@cll.com, jzk@cll.com, jhe@cll.com, njh@cll.com Phone:212-790-9200

Applicant Information

Application No	79048573	Publication date	06/03/2008
Opposition Filing Date	12/01/2008	Opposition Period Ends	11/30/2008
International Registration No.	0949727	International Registration Date	09/18/2007
Applicant	DS-DESIGN, besloten vennootschap met beperkte aansprakelijkheid Wareslagestraat 82 B-9250 Waasmunster BELGIUM		

Goods/Services Affected by Opposition

Class 035.

All goods and services in the class are opposed, namely: Promotional and advertising services; business management; business administration; business administrative services; distribution of advertising matter, advertisements and promotional material, also in the Internet; arranging and conducting of auctions and public auction sales; business information; market study, research and analysis; shop-window display arrangement services; organisational and business consulting; agencies for personnel placement and consultancy on personnel issues; placement of temporary personnel; leasing of office machines; documentation reproduction; public relations; business intermediation services in the field of wholesale trading in bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear, the above-services provided online or not; business record management; data processing; marketing services in the field of bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear; rental of apparatus for data processing purposes; consulting with respect to data processing

Grounds for Opposition

Other	Please see attached pleadings.
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Attachments	DKN TECHNOLOGY Notice of Opposition.pdf (6 pages)(20685 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Heather L. Jensen/
Name	Heather L. Jensen
Date	12/01/2008

17684.202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 79/048,573
Filed: September 18, 2007
For Mark: DKN TECHNOLOGY and Design
Published in the Official Gazette: June 3, 2008

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GABRIELLE STUDIO, INC.,

Opposer,

Opposition No.

-against-

NOTICE OF OPPOSITION

DS-DESIGN, besloten vennootschap met beperkte;
aansprakelijkheid

Applicant.

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Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Gabrielle Studio, Inc. ("Opposer"), a New York corporation, having an address at 550 Seventh Avenue, New York, New York, 10018, believes that it will be damaged by registration of the mark DKN TECHNOLOGY and Design, as shown in Application Serial Number 79/048,573 with respect to "promotional and advertising services; business management; business administration; business administrative services; distribution of advertising matter, advertisements and promotional material, also in the Internet; arranging and conducting of auctions and public auction sales; business information; market study, research and analysis; shop-window display arrangement services; organisational and business consulting; agencies for personnel placement and consultancy on personnel issues; placement of temporary personnel;

leasing of office machines; documentation reproduction; public relations; business intermediation services in the field of wholesale trading in bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear, the above-services provided online or not; business record management; data processing; marketing services in the field of bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear; rental of apparatus for data processing purposes; consulting with respect to data processing” in International Class 35, and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Beginning in 1989, Opposer, through its affiliated companies, predecessors-in-interest and authorized licensees, has been in the business of designing, producing, selling and distributing apparel, footwear, headgear, handbags, fragrance and other beauty products, accessories, optical products, watches and home and lifestyle products under trademarks consisting of the term DKNY used either alone or in conjunction with other words and/or design elements (collectively, the "DKNY Marks").

2. Opposer also operates numerous DKNY retail stores throughout the United States featuring apparel, footwear, headgear, handbags, watches, leather goods, and accessories bearing one or more of the DKNY Marks.

3. The products and services designated by Opposer’s DKNY Marks have been phenomenally successful and have enjoyed sales of hundreds of millions of dollars per year.

4. Millions of dollars are also spent each year in advertising Opposer’s DKNY Marks through various media, including magazines, newspapers, in-store displays, outdoor

advertising, internet websites and similar media prominently promoting the DKNY Marks and associated brand imagery.

5. The extensive advertisement and promotion of the DKNY Marks, coupled with the brand's potent commercial success, have resulted in the DKNY Marks acquiring tremendous goodwill and secondary meaning among the consuming public.

6. Opposer is the owner of numerous Federal trademark registrations and applications for Opposer's DKNY Marks, including without limitation Registration Nos. 3345619, 3398130, 3409980, 2640659, 2358744, 2601327, 1958158, 1598391, 2594717, 1607425, 1951022, 1586768, 2636433, 1646910, 1586886, 2470110, 1554808, 2203071, 2681622, 1609650, 2579817, 2992294, 2579723, 1784213, 2897303, 2737125, 3212869, 3187361, 3187255, 3069068, 3086192 and 2659025, and Application Serial Nos. 77/526,217, 77/526,111, 77/398281, 77/242080, 77/145057, 78/390539, 78/547565, 78/679323, 77/089362 and 78/859971, covering goods and services in International Classes 3, 9, 14, 16, 18, 21, 24, 25, 35 and 42. Registration Nos. 2579723, 2470110, 2358744, 1958158, 1598391, 1607425, 1784213, 1951022, 1586768, 1646910, 1586886, 1554808, 2203071 and 1609650 are incontestable.

7. Applicant is the owner of International Registration No. 949727, dated September 18, 2007, for the trademark DKN TECHNOLOGY and Design ("the DKN TECHNOLOGY Mark") for a variety of goods and services, including "promotional and advertising services; business management; business administration; business administrative services; distribution of advertising matter, advertisements and promotional material, also in the Internet; arranging and conducting of auctions and public auction sales; business information; market study, research and analysis; shop-window display arrangement services; organisational and business consulting;

agencies for personnel placement and consultancy on personnel issues; placement of temporary personnel; leasing of office machines; documentation reproduction; public relations; business intermediation services in the field of wholesale trading in bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear, the above-services provided online or not; business record management; data processing; marketing services in the field of bicycles, motorcycles, games, toys, sporting and gymnastic goods, body-training apparatus, stationary exercise bicycles, and parts thereof, clothing, footwear and headgear; rental of apparatus for data processing purposes; consulting with respect to data processing” in International Class 35 (“the IR”). The IR is based on and claims a priority of May 16, 2007 from the basic Benelux Application No. 1135367 (now Registration No. 1135367) on which it was based.

8. Applicant requested an extension of the IR to the United States under Section 66(a). The U.S. Patent & Trademark Office assigned Applicant’s request for extension of the IR U.S. Application Serial No. 79/048,573 and accorded it a filing date of September 18, 2007 with a priority date of May 16, 2007 (“the Application”).

9. Upon information and belief, Applicant did not use the DKN TECHNOLOGY Mark prior to its priority date of May 16, 2007.

10. Certain of the Class 35 services covered by the Application are closely related to goods and services offered in connection with Opposer’s DKNY Marks.

11. Applicant’s DKN TECHNOLOGY Mark so resembles Opposer's DKNY Marks as to be likely, when applied to Applicant's Class 35 services, to cause confusion, or to cause mistake or to deceive prospective consumers into believing that the Class 35 services offered in connection with Applicant's DKN TECHNOLOGY Mark are provided, approved, endorsed or

sponsored by Opposer or are otherwise associated, affiliated or connected with Opposer in some way.

WHEREFORE, Opposer, by its attorneys, respectfully requests that its opposition be sustained and that the application for registration be denied.

Please recognize as attorneys for Opposer in this proceeding Jonathan Z. King, Jeffrey H. Epstein and Heather L. Jensen and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Dated: New York, New York
December 1, 2008

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys For Opposer

By: /Heather L. Jensen/
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Heather L. Jensen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing Notice of Opposition to be sent via first class, postage paid mail to Applicant's counsel John Alunit, Esq., Patel & Alunit, PC, 16830 Ventura Blvd., Suite 360, Encino, CA 91436, on December 1, 2008.

/Heather L. Jensen/
Heather L. Jensen